

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE GUTIERREZ-YANEZ,)	
)	
Petitioner,)	
)	
v.)	1:16CR113-1
)	1:22CV395
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 2, 2022, was served on the parties in this action. (Docs. 50, 51.) Petitioner objected to the Recommendation. (Doc. 52.)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action is DENIED as filed and also, to the extent that Petitioner may intend to raise a claim under § 2255, DISMISSED sua sponte for failure to obtain certification for this § 2255 application by filing a Motion for Authorization in the Fourth Circuit Court of Appeals as required by 28 U.S.C. §§ 2255 and 2244 and Fourth Circuit Local Rule 22(d).

A judgment dismissing this action will be entered contemporaneously with this Order.

Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is DENIED.

 /s/ Thomas D. Schroeder
United States District Judge

June 22, 2022